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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,314

07/07/2006

Ilkka Limma

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20529

7590

06/25/2009

THE NATH LAW GROUP

112 South West Street

Alexandria, VA 22314

EXAMINER

LONG, ROBERT FRANKLIN

ART UNIT

PAPER NUMBER

3764

MAIL DATE

DELIVERY MODE

06/25/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/581,314	Applicant(s) LIMMA ET AL.	
	Examiner Robert F. Long	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/09/09 has been entered.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the speaker, earpiece, and selection means for selecting the sport activity information on the receiving device must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: The phrase "device that can be attached e.g. to an arm of the user" is does not describe the means or mechanism as to how the device is attached to a user. The drawings also do not show the device being attached to a user. An apparatus and/or method comprising the structure and means of how the device is attached to the arm of a user must be described and/or shown. Also the phrase "a measurement device 30 that was already discussed in more detail with Figure 2", on page 12, line 5, is not clear if device 30 is the same as device 20 since the device in figure 2 is device 20. Device 30 is not discussed anywhere prior to this phrase and is shown in figure 3. It is not clear if this is a typing error and both devices should be device 20 or if there is more than one measuring device. Therefore it is not clear which device is being referred. Appropriate correction is required.

Claim Objections

Claim 1 is objected to because of the following informalities: The phrase “a measurement device” on line 5 of claim 1; should be recited as either “said” or “the” measurement device since there is only one measurement device disclosed in the specification. Examiner is interpreting the second recitation of "a measurement device" on line 5 of claim 1 to be the same singular measurement device recited in line 4 of claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-26 are rejected under 35 U.S.C. 102(b) as being anticipated by **Root et al. (US 6013007 A)**.

Regarding claims 1-26, Root et al. discloses a measuring device (feedback device 101 figure 6) and system (feedback device 101, headphones 202, and antenna 301, with satellite 204 to form communication). See figure 3 below -

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6,013,007

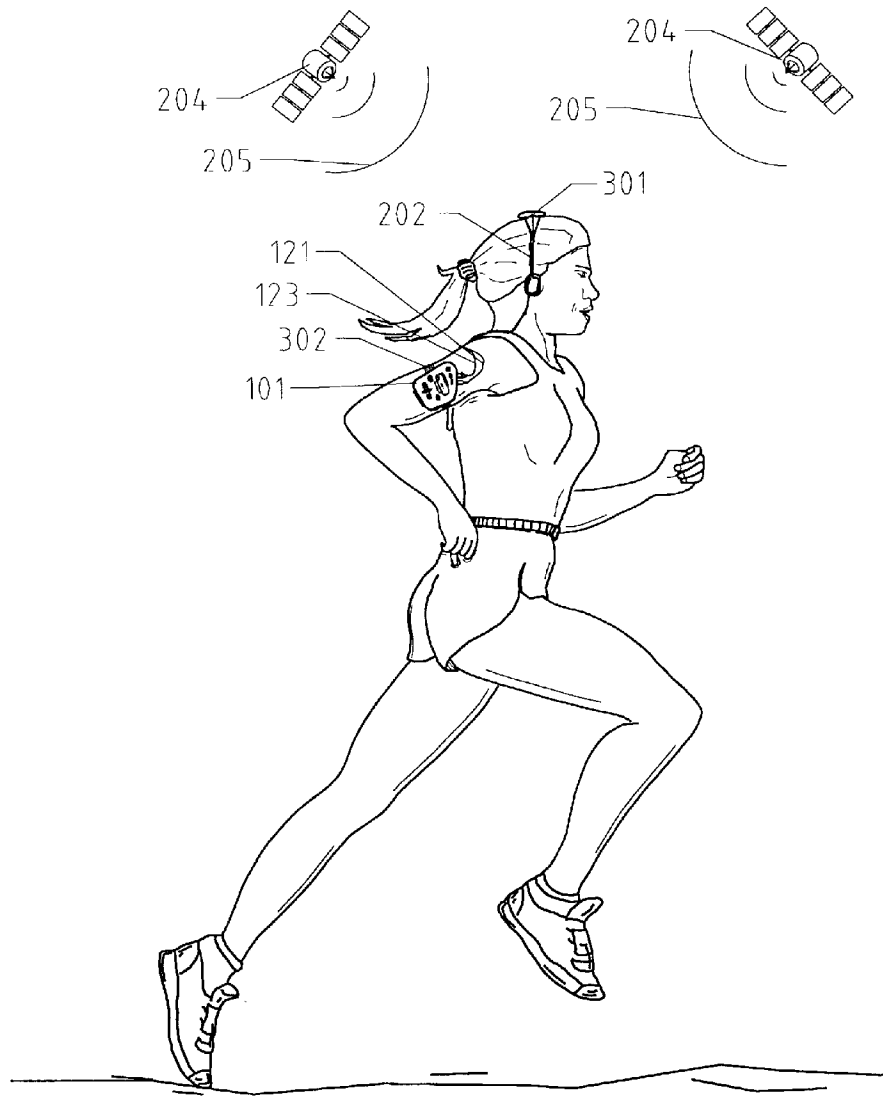


Fig. 3

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Root also discloses a method of transmitting via a transmitter (modem 613, figure 6) and providing at least one individual with feedback based on a measured sports activity (running figures 2-3) information, wherein the system and method comprises: a measurement device (feedback device 101 having measurement barometric sensor 610, figure 6) comprising a first processor (CPU 602, figure 6), a plurality of measuring elements (sensors 610-612, figure 6) configured to measure a plurality of quantities relating to a sports activity, a first memory (memory 608, figure 6) configured to store measurement data provided by the measuring elements comprising a GPS receiver (604, figure 6), barometric sensor (610), heart sensor (611, figure 6), and a thermometer, (body temperature sensor 612, figure 6), and a transmitter (modem 613, figure 6) configured to transmit sports activity (running figures 2-3) information during the sports activity (running figures 2-3) to at least one a receiving device via a local communication link according to a communication protocol, (feedback transfer column 8, lines 59-67); and the receiving device (GPS receiver module 604, figure 6) comprising a receiver (antenna 301, figure 6), configured to receive a transmission from the measurement device during the sports activity (running figures 2-3) via a local communication link, wherein the transmission includes sports activity (running figures 2-3) information measured with the measurement device (feedback device 101, figure 6), a second memory (built in memory of GPS receiver module 604, figure 6) configured to store at least one definition based on which a predefined set of pieces of sports activity (running figures 2-3) information is selected from the received sports activity (running figures 2-3) information, and a second processor (built in processor of GPS receiver

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module 604, figure 6) configured to select the predefined set of pieces of sports activity (running figures 2-3) information from the received sports activity (running figures 2-3) information based on the at least one definition, which is defined based on the sport in question, stored on the second memory (built in memory of GPS receiver module 604, figure 6); and at least one feedback device (feedback device 101, figure 6) configured to provide the at least one individual with feedback on a user interface display based on the selected sports activity (running figures 2-3) information, (column 4, lines 4-67, column 5, lines 1-67, figures 1-12). See figure 6 below for electrical schematic of the feedback device —

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6,013,007

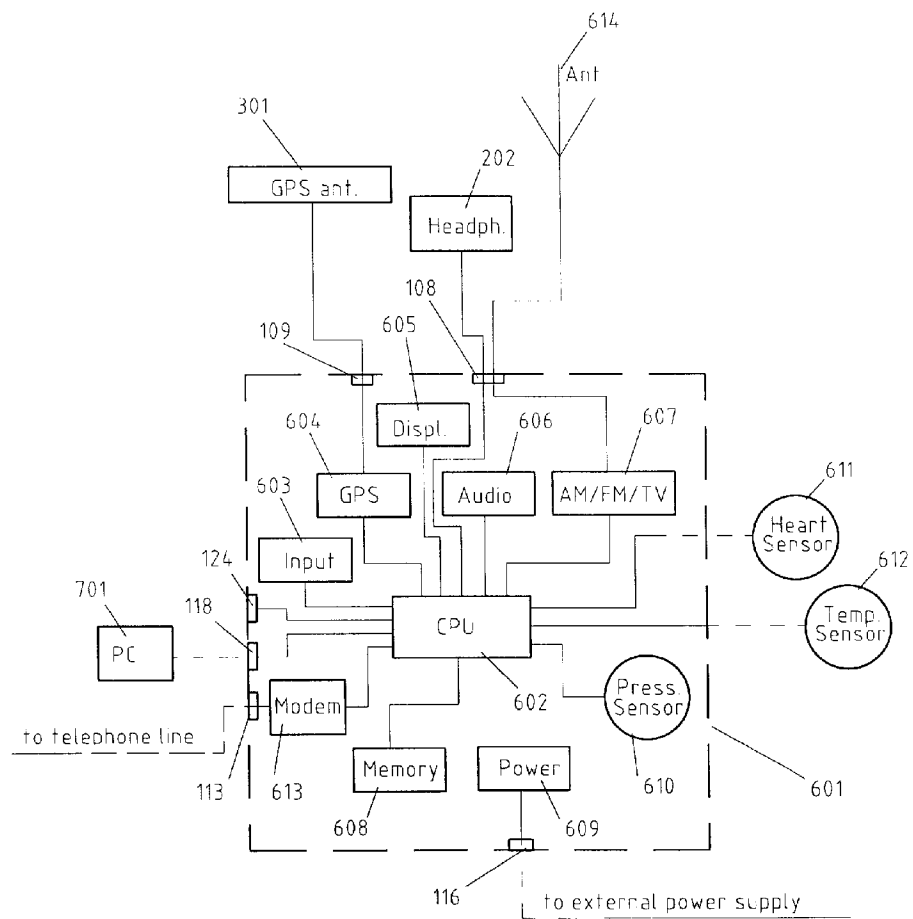
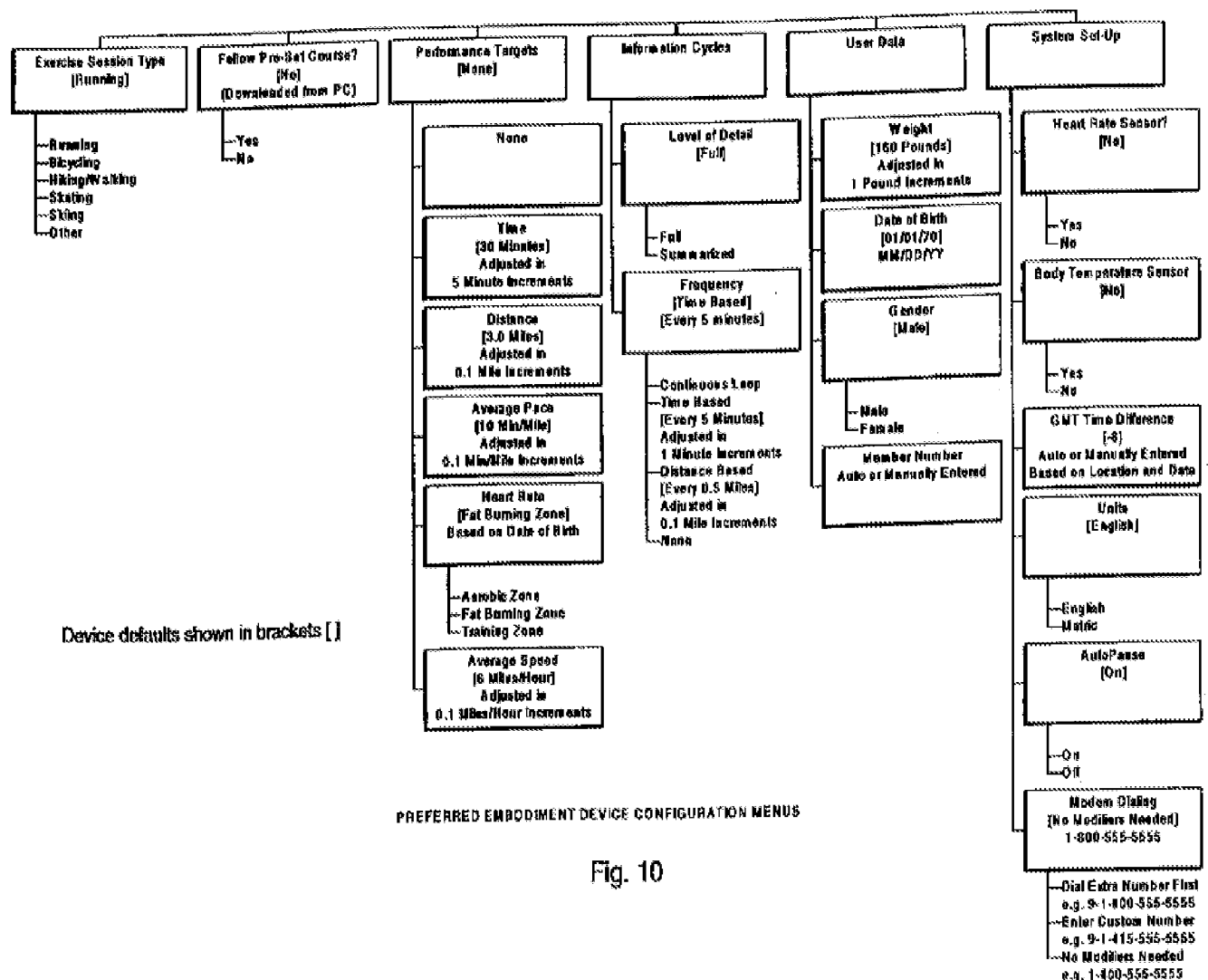


Fig. 6

Root et al. also discloses the system and method comprises the feedback device (101, figure 6) a display having graphical features, geographic position on display 112, column 4, lines 10-15), voice signals (audio module 606, column 35-64), ear piece, (headphones figures 2-5), and a speaker (column 11, lines 1-5). Root et al. also discloses a menu and selection choices for the desired activity, (column 6, lines 42-49, figure 10). See figure 10 below for menu selection and activity settings –



Root et al. also disclose the method of setting the feedback input and output data to a users desired needs and the method operating the device, (*column 6, lines 63-67, column 8, lines 1-67, column 9, lines 1-62*)

Root et al. states, *"Before exercising, the athlete turns on the GPS-based personal performance monitor and feedback device 101 (FIGS. 1A and 1B) and sets his/her preferences using the menu control buttons 115 and display 112. Preference options include, by way of example, performance targets (e.g., total distance, exercise session time, and/or average speed or pace), frequency of feedback information cycles (e.g., continuous, time-related, distance-related, or none), type of feedback information (e.g., full or summarized), and personal data (e.g., gender, birth date, and body weight). Certain preference options may only need to be set once (such as gender and birth date) or occasionally (such as weight or other variable parameters), while other preference options may be adjusted each time the GPS-based personal performance monitor and feedback device is used. Alternatively, all device settings and user preferences may be set and/or adjusted using a personal computer and an optional software program"*, (*column 6, lines 63-67, column 8, lines 1-14*).

Root et al. also disclose using the feedback device for a method of providing motivation to a user, (*column 10, lines 1-67*).

Response to Arguments

Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection of newly cited art. A specification objection was made for not describing how the device can be attached to a user and a drawing objection was made since the speaker, earpiece, and selection means for selecting the sport activity information on the receiving device are not shown. For selecting the sport activity a menu selection means and/or button/mechanism needs to be indicated and/or shown to better understand the device. Appropriate action is required.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Per international search report – **Mault et al. (US 20030065257 A1)** – *Activity monitoring device*. Also see **Vock et al. (US 6856934 B2)** – *Sport monitoring systems and associated methods*, **Seiple (US 6032108 A)** – *Sport performance computer system*.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert F. Long whose telephone number is (571)270-3864. The examiner can normally be reached on Monday-Friday (7:30-5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn Thanh can be reached on (571) 272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert F Long/
Examiner, Art Unit 3764
Friday, June 19, 2009

/LoAn H. Thanh/
Supervisory Patent Examiner, Art Unit 3764